

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 530
90TH GENERAL ASSEMBLY

Reported from the Committee on Criminal Law, April 17, 2000, with recommendation that the House Committee Substitute for Senate Committee Substitute for Senate Bill No. 530 Do Pass.

ANNE C. WALKER, Chief Clerk

2782L.08C

AN ACT

To repeal sections 43.500, 43.518, 43.521, 43.530, 43.543, 217.750, 568.050, 575.230 and 610.120, RSMo 1994, and sections 43.503, 43.506, 195.017, 195.070, 221.120, 552.020, 552.040, 565.084, 568.030, 568.045 and 610.122, RSMo Supp. 1999, relating to crimes and punishment, and to enact in lieu thereof thirty-nine new sections relating to the same subject, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 43.500, 43.518, 43.521, 43.530, 43.543, 217.750, 568.050, 575.230 and 610.120, RSMo 1994, and sections 43.503, 43.506, 195.017, 195.070, 221.120, 552.020, 552.040, 565.084, 568.030, 568.045 and 610.122, RSMo Supp. 1999, are repealed and thirty-nine new sections enacted in lieu thereof, to be known as sections 43.500, 43.503, 43.506, 43.518, 43.530, 43.532, 43.543, 195.017, 195.070, 210.950, 217.750, 221.120, 221.407, 221.510, 552.020, 552.040, 565.084, 566.111, 568.030, 568.045, 568.050, 568.052, 568.072, 568.176, 575.230, 610.120, 610.122, 650.400, 650.403, 650.406, 650.409, 650.412, 650.415, 1, 2, 3, 4, 5, and 6, to read as follows:

43.500. As used in sections 43.500 to 43.530, the following terms mean:

(1) "Central repository", the Missouri state highway patrol criminal records **and identification** division for compiling and disseminating complete and accurate criminal history records;

(2) "Committee", criminal records advisory committee;

(3) "Criminal history record information", information collected by criminal justice agencies on individuals consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations, or other formal criminal charges, and any disposition arising therefrom, sentencing, correctional supervision, and release;

(4) "Final disposition", the formal conclusion of a criminal proceeding at whatever stage it occurs in the criminal justice system;

(5) "State offense cycle number" or "OCN", a [preprinted] **unique** number [on] **associated with** the state fingerprint card [which is used to identify each arrest which may include multiple offenses for which a person is fingerprinted] **which is supplied or approved by the Missouri state**

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

highway patrol and which is used to link the identity of a person through fingerprints to one or many offenses with which the person is arrested or charged. [This number] **The OCN** will be [associated with] **used to track** an offense incident from the date of arrest to the [date] **final disposition when** the offender exits [from] the criminal justice system;

(6) **"Missouri charge code", a unique number assigned by the office of the courts administrator to an offense for tracking and grouping offenses. The complete charge code is eight digits and shall consist of the five digits assigned by the office of the courts administrator, the two digit national crime information center modifiers and the single digit designating attempt, accessory or conspiracy;**

(7) **"Without undue delay", as soon as possible but not later than [thirty] fifteen days after the criminal history event;**

[(7)] (8) **"Administration of criminal justice", performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders. The administration of criminal justice shall include criminal identification activities and the collection, storage, and dissemination of criminal history record information, including fingerprint searches, photographs, and other indicia of identification.**

43.503. 1. For the purpose of maintaining complete and accurate criminal history record information, all police officers of this state, the clerk of each **municipal, state circuit and state appellate** court, the department of corrections, the sheriff of each county, the chief law enforcement official of a city not within a county and the prosecuting attorney of each county or the circuit attorney of a city not within a county shall submit certain criminal arrest, charge, and disposition information to the central repository for filing without undue delay in the form and manner required by sections 43.500 to 43.530.

2. All law enforcement agencies making [misdemeanor and felony] arrests as determined by section 43.506 shall furnish without undue delay, to the central repository, fingerprints, charges, **appropriate charge codes** and descriptions of all persons who are arrested for such offenses on standard fingerprint forms supplied **or approved** by the highway patrol **or shall transmit such information electronically without undue delay to the central repository in a format and manner approved by the highway patrol.** All such agencies shall also notify the central repository of all decisions not to refer such arrests for prosecution. An agency making such arrests may enter into arrangements with other law enforcement agencies for the purpose of furnishing without undue delay such fingerprints, charges, and descriptions to the central repository upon its behalf. In instances where an individual **who is** less than seventeen years of age **and not currently certified as an adult** is taken into custody for an offense which would be [considered] a felony if committed by an adult, the arresting officer shall take [one set of] fingerprints for the central repository [and may take another set for inclusion in a local or regional automated fingerprint identification system]. These fingerprints shall be taken on fingerprint cards [which are plainly marked "juvenile card" and shall be provided by the central repository. The fingerprint cards shall be so constructed that only the fingerprints, unique identifying number, and the court of jurisdiction are] **supplied by or approved by the highway patrol or transmitted electronically in a format and manner approved by the highway patrol. The name of the juvenile should not be made available to the central [or local] repository. [The remainder of the card which bears] The individual's [identification and] name, the [duplicate] unique number associated with the fingerprints and other pertinent information** shall be provided to the court of jurisdiction **by the agency taking the juvenile into**

custody. The [appropriate portion of the juvenile fingerprint card] **juvenile's fingerprints and other information** shall be forwarded **without undue delay** to the central repository and the courts [without undue delay]. The fingerprint information [from the card] shall be captured and stored in the automated fingerprint identification system operated by the central repository. [The juvenile fingerprint card shall be stored in a secure location, separate from all other fingerprint cards.] In the event the fingerprints [from this card] are found to match **other ten prints or unsolved** latent prints [searched in the automated fingerprint identification system], **the central repository shall notify the submitting agency who shall notify** the court of jurisdiction [shall be so advised] **as per local agreement. Juvenile authorities may forward fingerprints, photographs and other indicia of identification of juveniles certified as adults to the central repository for entry into the criminal history record system to identify and track those juveniles certified as adults. If the certification of a juvenile is no longer applicable, after the juvenile authority forwards information to the central repository, the juvenile authority shall inform the central repository of the change in the status of the juvenile without undue delay.**

3. The prosecuting attorney of each **municipality or county**, or the circuit attorney of a city not within a county shall notify the central repository on standard forms supplied by the highway patrol **or in a format and manner approved by the highway patrol** of all charges filed, including all those added subsequent to the filing of a criminal court case, and whether charges were not filed in criminal cases for which the central repository has a record of an arrest. All records forwarded to the central repository by prosecutors or circuit attorneys as required by sections 43.500 to 43.530 shall include the state offense cycle number of the offense, **the charge code for the offense** and the originating agency identifier number of the reporting prosecutor, using such numbers as assigned by the highway patrol.

4. The clerk of the courts of each **municipality**, county or city not within a county shall furnish the central repository, on standard forms supplied by the highway patrol **or in a format and manner approved by the highway patrol**, with all final dispositions of [criminal] cases for which the central repository has a record of an arrest or a record of fingerprints reported pursuant to [subsections 6 and 7 of this section] **sections 43.500 to 43.506**. Such information shall include, for each charge:

(1) All judgments of not guilty, acquittals on the ground of mental disease or defect excluding responsibility, judgments or pleas of guilty including the sentence, if any, or probation, if any, pronounced by the court, nolle pros, discharges, releases and dismissals in the trial court;

(2) Court orders filed with the clerk of the courts which reverse a reported conviction or vacate or modify a sentence;

(3) Judgments terminating or revoking a sentence to probation, supervision or conditional release and any resentencing after such revocation; and

(4) The offense cycle number of the offense, and the originating agency identifier number of the reporting court, using such numbers as assigned by the highway patrol.

5. The clerk of the courts of each **municipality**, county or city not within a county shall furnish **to the department of corrections or the department of mental health** court judgment and sentence documents and the state offense cycle number **and the charge code** of the offense[,] which result in the commitment or assignment of an offender[,] to the jurisdiction of the department of corrections or the department of mental health if the person is committed pursuant to chapter 552, RSMo. This information shall be reported to the department of corrections or the department of mental health at the time of commitment or assignment. If the offender was already in the custody

of the department of corrections or the department of mental health at the time of such subsequent conviction, the clerk shall furnish notice of such subsequent conviction to the appropriate department by certified mail, return receipt requested, [within ten days of such disposition] **or in a manner and format mutually agreed to without undue delay.**

6. [After the court pronounces sentence, including an order of supervision or an order of probation granted for any offense which is required by statute to be collected, maintained, or disseminated by the central repository, or commits a person to the department of mental health pursuant to chapter 552, RSMo,] **Information, fingerprints and other indicia forwarded to the central repository, normally obtained from a person at the time of arrest, may be obtained at any time the subject is in the criminal justice system or committed to the department of mental health pursuant to chapter 552, RSMo, before final disposition of the charge or final discharge of the person. A law enforcement agency or the department of corrections may fingerprint the person and obtain the necessary information at any time the subject is in custody. The prosecuting attorney or the circuit attorney of a city not within a county shall request a law enforcement agency or person knowledgeable in the process of obtaining fingerprints to fingerprint the subject and obtain the necessary information and indicia at the time the subject appears for arraignment or at a time and place deemed appropriate by the prosecuting attorney or the circuit attorney of a city not within a county, whenever the subject's fingerprints and other identifying indicia were not obtained or are not available for the offense being processed. The prosecuting attorney or the circuit attorney of a city not within a county shall ask the court to order [a law enforcement agency to fingerprint] that fingerprints be taken immediately for all persons appearing before the court to be sentenced or committed who have not previously been fingerprinted for the same case. The court shall order the requested fingerprinting if it determines that any [sentenced or committed] such person has not previously been fingerprinted for the same case. The law enforcement agency or agency taking the fingerprints shall submit such fingerprints to the central repository without undue delay and shall furnish the OCN associated with the fingerprints to the prosecuting attorney or the circuit attorney of a city not within a county and to the court clerk of the court ordering the subject fingerprinted.**

7. The department of corrections and the department of mental health shall furnish the central repository with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency, **legal name change** or discharge of an individual who has been sentenced to that department's custody for any offenses which are mandated by law to be collected, maintained or disseminated by the central repository. All records forwarded to the central repository by the department as required by sections 43.500 to 43.530 shall include the offense cycle number of the offense, and the originating agency identifier number of the department using such numbers as assigned by the highway patrol.

8. Nothing in this chapter shall prohibit any criminal justice agency from reporting any arrest or custody information, prosecution action or court action, to the central repository, taken on any subject for a violation which is not categorized as a reportable offense in the Missouri charge code manual.

43.506. 1. Those offenses considered reportable for the purposes of sections 43.500 to 43.530 include all felonies and serious or aggravated misdemeanors consistent with the reporting standards established by the National Crime Information Center, Federal Bureau of Investigation, for the Federal Interstate Identification Index System. [In addition, all cases arising pursuant to sections 566.010 to 566.141, RSMo, where the defendant pleads guilty to an offense involving a child under

seventeen years of age and the court imposes a suspended imposition of sentence shall be reported. The following types of offenses shall not be considered reportable for the purposes of sections 57.403, RSMo, 43.500 to 43.530, and 595.200 to 595.218, RSMo: disturbing the peace, curfew violation, loitering, false fire alarm, disorderly conduct, nonspecific charges of suspicion or investigation, and general traffic violations and all misdemeanor violations of the state wildlife code.] All violations for driving under the influence of drugs or alcohol are reportable. All offenses considered reportable shall be reviewed annually and noted in the Missouri charge code manual established in section 43.512. All information collected pursuant to sections 43.500 to 43.530 shall be available only as set forth in section 610.120, RSMo.

2. [With the exception of the manual reporting of arrests and fingerprints by law enforcement agencies as noted in subsection 2 of section 43.503, and notwithstanding subsections 2 to 7 of section 43.503,] **Action on any offense by a criminal justice agency may be reported to the central repository whether or not it is noted as reportable in the Missouri charge code manual.**

3. Law enforcement agencies, court clerks, prosecutors and custody agencies may report required information by electronic medium either directly to the central repository or indirectly to the central repository via other criminal justice agency computer systems in the state with the approval of the [advisory committee] **highway patrol.**

[3.] **4.** In addition to the repository of fingerprint records for individual offenders, the central repository of criminal history **and identification** records for the state shall maintain a repository of latent prints **and other fingerprints submitted to the repository.**

43.518. 1. There is hereby established within the department of public safety a "Criminal Records Advisory Committee" whose purpose is to recommend general policies with respect to the philosophy, concept and operational principles of the Missouri criminal history record information system established by sections 43.500 to 43.530, in regard to the collection, processing, storage, dissemination and use of criminal history record information maintained by the central repository.

2. The committee shall be composed of the following officials or their designees: the director of the department of public safety; the director of the department of corrections and human resources; the attorney general; the director of the Missouri office of prosecution services; the president of the Missouri prosecutors association; the president of the Missouri court clerks association; the chief clerk of the Missouri state supreme court; the director of the state courts administrator; the chairman of the state judicial record committee; the chairman of the circuit court budget committee; the presidents of the Missouri peace officers association; the Missouri sheriffs association; the Missouri police chiefs association or their successor agency; the superintendent of the Missouri highway patrol; the chiefs of police of agencies in jurisdictions with over two hundred thousand population; except that, in any county of the first class having a charter form of government, the chief executive of the county may designate another person in place of the police chief of any countywide police force, to serve on the committee; and, at the discretion of the director of public safety, as many as three other representatives of other criminal justice [records systems or law enforcement] agencies may be appointed by the director of public safety. The director of the department of public safety will serve as the permanent chairman of this committee.

3. The committee shall meet as determined by the director but not less than [semiannually] **annually** to perform its duties. A majority of the appointed members of the committee shall constitute a quorum.

4. No member of the committee shall receive any state compensation for the performance of duties associated with membership on this committee.

5. Official minutes of all committee meetings will be prepared by the director, promptly distributed to all committee members, and filed by the director for a period of at least five years.

[43.521. Sections 43.500 to 43.530 shall not require fingerprinting of juvenile offenders or reporting of information pertaining to a proceeding pursuant to the Missouri juvenile code, except in those cases where a juvenile is certified to the circuit court to stand trial as an adult.]

43.530. For each request **requiring the payment of a fee** received by the central repository, [as defined in subdivision (1) of section 43.500,] the requesting entity shall pay a **processing** fee of not more than five dollars per request for criminal history record information **not based on a fingerprint search** and pay a fee of not more than fourteen dollars per request for [classification and search of fingerprints] **criminal history record information based on a fingerprint search**. Each such request shall be limited to check and search on one individual. Each request shall be accompanied by a check, warrant, voucher, or money order payable to the state of Missouri-criminal record system **or payment shall be made in a manner approved by the highway patrol**. There is hereby established by the treasurer of the state of Missouri a fund to be entitled as the "Criminal Record System Fund". Notwithstanding the provisions of section 33.080, RSMo, to the contrary, if the moneys collected and deposited into this fund are not totally expended annually **by the highway patrol** for the purposes set forth in [section 43.527] **sections 43.500 to 43.543**, the unexpended moneys in such fund shall remain in the fund and the balance shall be kept in the fund to accumulate from year to year.

43.532. Criminal history and identification records obtained from the central repository shall be used solely for the purpose for which they were obtained. The subject of the record shall be afforded the opportunity to challenge the correctness, accuracy and completeness of a criminal history record before being denied employment, license, certification or privilege of any nature.

43.543. [Any state agency listed in section 621.045, RSMo, or any state agency which provides programs, care or treatment for or which exercises supervision over minors shall submit two sets of fingerprints for any person seeking employment with such agency or provider or for any person who is seeking the issuance or renewal of a license, permit or certificate of registration or authority from such agency, for the purpose of checking the person's prior criminal history when the state agency determines a nationwide check is warranted. The fingerprint cards and any required fees shall be sent to the Missouri state highway patrol's criminal records division. The first set of fingerprints shall be used for searching the state repository of criminal history information. If no identification is made, the second set of fingerprints shall be forwarded to the Federal Bureau of Investigation, Identification Division, for the searching of the federal criminal history files. The patrol shall notify the submitting state agency of any criminal history information or lack of criminal history information discovered on the individual. Notwithstanding the provisions of section 610.120, RSMo, all records related to any criminal history information discovered shall be accessible and available to the state agency making the record request.] **Fingerprints may be taken and submitted to the Missouri state highway patrol, Missouri criminal records repository for criminal history checks as follows:**

(1) By any state agency listed in section 621.045, RSMo, the division of professional registration of the department of economic development, the department of social services, the Missouri supreme court and the department of elementary and secondary education for persons seeking employment with such agency, or issuance or renewal of a license, permit, certificate or registration of authority from such agency;

(2) By any state agency which provides or oversees programs, care, treatment or supervision for youth, elderly or disabled, for persons seeking employment with such agency or issuance or renewal of a license, permit, certificate or registration of authority from such agency;

(3) By any state agency or committee authorized by state statute or executive order to screen persons seeking employment within state government;

(4) By the department of public safety for persons, whether or not such persons are employed by a criminal justice agency, who seek enrollment or access to a state certified training center;

(5) By criminal justice agencies for persons under contract or agreement who have access to criminal justice facilities, documents or records; and

(6) By law enforcement agencies for persons seeking issuance or renewal of a license, permit, certificate or registration of authority from such agencies, including, but not limited to the positions of watch person, security personnel and private investigators.

195.017. 1. The department of health shall place a substance in Schedule I if it finds that the substance:

(1) Has high potential for abuse; and

(2) Has no accepted medical use in treatment in the United States or lacks accepted safety for use in treatment under medical supervision.

2. Schedule I:

(1) The controlled substances listed in this subsection are included in Schedule I;

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, unless specifically excepted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

(a) Acetyl-alpha-methylfentanyl;

(b) Acetylmethadol;

(c) Allylprodine;

(d) Alphacetylmethadol;

(e) Alphameprodine;

(f) Alphamethadol;

(g) Alpha-methylfentanyl;

(h) Alpha-methylthiofentanyl;

(i) Benzethidine;

(j) Betacetylmethadol;

(k) Beta-hydroxyfentanyl;

(l) Beta-hydroxy-3-methylfentanyl;

(m) Betameprodine;

(n) Betamethadol;

(o) Betaprodine;

(p) Clonitazene;

(q) Dextromoramide;

(r) Diampromide;

(s) Diethylthiambutene;

(t) Difenoxy;

(u) Dimenoxadol;

- (v) Dimepheptanol;
- (w) Dimethylthiambutene;
- (x) Dioxaphetyl butyrate;
- (y) Dipipanone;
- (z) Ethylmethylthiambutene;
- (aa) Etonitazene;
- (bb) Etoxidine;
- (cc) Furethidine;
- (dd) Hydroxypethidine;
- (ee) Ketobemidone;
- (ff) Levomoramide;
- (gg) Levophenacymorphan;
- (hh) 3-Methylfentanyl;
- (ii) 3-Methylthiofentanyl;
- (jj) Morpheridine;
- (kk) MPPP;
- (ll) Noracymethadol;
- (mm) Norlevorphanol;
- (nn) Normethadone;
- (oo) Norpipanone;
- (pp) Para-fluorofentanyl;
- (qq) PEPAP;
- (rr) Phenadoxone;
- (ss) Phenampromide;
- (tt) Phenomorphan;
- (uu) Phenoperidine;
- (vv) Piritramide;
- (ww) Proheptazine;
- (xx) Properidine;
- (yy) Propiram;
- (zz) Racemoramide;
- (aaa) Thiofentanyl;
- (bbb) Tilidine;
- (ccc) Trimeperidine;

(3) Any of the following opium derivatives, their salts, isomers and salts of isomers unless specifically excepted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) Acetorphine;
- (b) Acetyldihydrocodeine;
- (c) Benzylmorphine;
- (d) Codeine methylbromide;
- (e) Codeine-N-Oxide;
- (f) Cyprenorphine;
- (g) Desomorphine;
- (h) Dihydromorphine;

- (i) Drotebanol;
- (j) Etorphine; (except Hydrochloride Salt);
- (k) Heroin;
- (l) Hydromorphinol;
- (m) Methyldesorphine;
- (n) Methyldihydromorphine;
- (o) Morphine methylbromide;
- (p) Morphine methylsulfonate;
- (q) Morphine-N-Oxide;
- (r) Myrophine;
- (s) Nicocodeine;
- (t) Nicomorphine;
- (u) Normorphine;
- (v) Pholcodine;
- (w) Thebacon;

(4) Any material, compound, mixture or preparation which contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers, unless specifically excepted, whenever the existence of these salts, isomers, and salts of isomers is possible within the specific chemical designation:

- (a) 4-bromo-2,5-dimethoxyamphetamine;
- (b) 4-bromo-2, 5-dimethoxyphenethylamine;
- (c) 2,5-dimethoxyamphetamine;
- (d) 2,5-dimethoxy-4-ethylamphetamine;
- (e) 4-methoxyamphetamine;
- (f) 5-methoxy-3,4-methylenedioxyamphetamine;
- (g) 4-methyl-2,5-dimethoxy amphetamine;
- (h) 3,4-methylenedioxyamphetamine;
- (i) 3,4-methylenedioxymethamphetamine;
- (j) 3,4-methylenedioxy-N-ethylamphetamine;
- (k) N-nydroxy-3, 4-methylenedioxyamphetamine;
- (l) 3,4,5-trimethoxyamphetamine;
- (m) Alpha-ethyltryptamine;
- (n) Bufotenine;
- (o) Diethyltryptamine;
- (p) Dimethyltryptamine;
- (q) Ibogaine;
- (r) Lysergic acid diethylamide;
- (s) Marijuana; (Marihuana);
- (t) Mescaline;
- (u) Parahexyl;
- (v) Peyote, to include all parts of the plant presently classified botanically as Lophophora Williamsil Lemaire, whether growing or not; the seeds thereof; any extract from any part of such plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seed or extracts;
- (w) N-ethyl-3-piperidyl benzilate;

- (x) N-methyl-3-piperidyl benzilate;
- (y) Psilocybin;
- (z) Psilocyn;
- (aa) Tetrahydrocannabinols;
- (bb) Ethylamine analog of phencyclidine;
- (cc) Pyrrolidine analog of phencyclidine;
- (dd) Thiophene analog of phencyclidine;
- (ee) 1-(1-(2-thienyl)cyclohexyl) pyrrolidine;

(5) Any material, compound, mixture or preparation containing any quantity of the following substances having a depressant effect on the central nervous system, including their salts, isomers and salts of isomers whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (a) **Gamma hydroxybutyric acid;**
- (b) Mecloqualone;
- [(b)] (c) Methaqualone;

(6) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Aminorex;
- (b) Cathinone;
- (c) Fenethylamine;
- (d) Methcathinone;
- (e) (+)cis-4-methylaminorex ((+)cis-4,5-dihydro- 4-methyl-5-phenyl-2-oxazoline);
- (f) N-ethylamphetamine;
- (g) N,N-dimethylamphetamine;

(7) A temporary listing of substances subject to emergency scheduling under federal law shall include any material, compound, mixture or preparation which contains any quantity of the following substances:

(a) N-(1-benzyl-4-piperidyl)-N-phenyl-propanamide (benzylfentanyl), its optical isomers, salts and salts of isomers;

(b) N-(1-(2-thienyl) methyl-4-piperidyl)-N-phenylpropanamide (thenylfentanyl), its optical isomers, salts and salts of isomers.

3. The department of health shall place a substance in Schedule II if it finds that:

- (1) The substance has high potential for abuse;
- (2) The substance has currently accepted medical use in treatment in the United States, or currently accepted medical use with severe restrictions; and
- (3) The abuse of the substance may lead to severe psychic or physical dependence.

4. The controlled substances listed in this subsection are included in Schedule II:

(1) Any of the following substances whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by combination of extraction and chemical synthesis:

(a) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate, excluding apomorphine, thebaine-derived butorphanol, dextrophan, nalbuphine, nalmefene, naloxone and naltrexone, and their respective salts but including the following:

- a. Raw opium;

- b. Opium extracts;
- c. Opium fluid;
- d. Powdered opium;
- e. Granulated opium;
- f. Tincture of opium;
- g. Codeine;
- h. Ethylmorphine;
- i. Etorphine hydrochloride;
- j. Hydrocodone;
- k. Hydromorphone;
- l. Metopon;
- m. Morphine;
- n. Oxycodone;
- o. Oxymorphone;
- p. Thebaine;

(b) Any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in this subdivision, but not including the isoquinoline alkaloids of opium;

(c) Opium poppy and poppy straw;

(d) Coca leaves and any salt, compound, derivative, or preparation of coca leaves, and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions which do not contain cocaine or ecgonine;

(e) Concentrate of poppy straw (the crude extract of poppy straw in either liquid, solid or powder form which contains the phenanthrene alkaloids of the opium poppy);

(2) Any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation, dextrorphan and levopropoxyphene excepted:

- (a) Alfentanil;
- (b) Alphaprodine;
- (c) Anileridine;
- (d) Bezitramide;
- (e) Bulk Dextropropoxyphene;
- (f) Carfentanil;
- (g) Butyl nitrite;
- (h) Dihydrocodeine;
- (i) Diphenoxylate;
- (j) Fentanyl;
- (k) Isomethadone;
- (l) Levo-alphaacetylmethadol;
- (m) Levomethorphan;
- (n) Levorphanol;
- (o) Metazocine;
- (p) Methadone;
- (q) Meperidine;

- (r) Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenylbutane;
- (s) Moramide-Intermediate, 2-methyl-3-morpholino-1, 1-diphenylpropane--carboxylic acid;
- (t) Pethidine;
- (u) Pethidine-Intermediate-A, 4-cyano-1-methyl-4-phenylpiperidine;
- (v) Pethidine-Intermediate-B, ethyl-4-phenylpiperidine-4-carboxylate;
- (w) Pethidine-Intermediate-C, 1-methyl-4-phenylpiperidine-4-carboxylic acid;
- (x) Phenazocine;
- (y) Piminodine;
- (z) Racemethorphan;
- (aa) Racemorphan;
- (bb) Sulfentanil;
- (3) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system:
 - (a) Amphetamine, its salts, optical isomers, and salts of its optical isomers;
 - (b) Methamphetamine, its salts, isomers, and salts of its isomers;
 - (c) Phenmetrazine and its salts;
 - (d) Methylphenidate;
- (4) Any material, compound, mixture, or preparation which contains any quantity of the following substances having a depressant effect on the central nervous system, including its salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:
 - (a) Amobarbital;
 - (b) Glutethimide;
 - (c) Pentobarbital;
 - (d) Phencyclidine;
 - (e) Secobarbital;
- (5) Any material, compound or compound which contains any quantity of the following substances:
 - (a) Dronabinol (synthetic) in sesame oil and encapsulated in a soft gelatin capsule in a United States Food and Drug Administration approved drug product;
 - (b) Nabilone;
- (6) Any material, compound, mixture, or preparation which contains any quantity of the following substances:
 - (a) Immediate precursor to amphetamine and methamphetamine: Phenylacetone;
 - (b) Immediate precursors to phencyclidine (PCP):
 - a. 1-phenylcyclohexylamine;
 - b. 1-piperidinocyclohexanecarbonitrile (PCC).
- 5. The department of health shall place a substance in Schedule III if it finds that:
 - (1) The substance has a potential for abuse less than the substances listed in Schedules I and II;
 - (2) The substance has currently accepted medical use in treatment in the United States; and
 - (3) Abuse of the substance may lead to moderate or low physical dependence or high psychological dependence.
- 6. The controlled substances listed in this subsection are included in Schedule III:
 - (1) Any material, compound, mixture, or preparation which contains any quantity of the

following substances having a potential for abuse associated with a stimulant effect on the central nervous system:

- (a) Benzphetamine;
- (b) Chlorphentermine;
- (c) Clortermine;
- (d) Phendimetrazine;

(2) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances or salts having a depressant effect on the central nervous system:

(a) Any material, compound, mixture or preparation which contains any quantity or salt of the following substances combined with one or more active medicinal ingredients:

a. Amobarbital;

b. **Gamma hydroxybutyric acid and its salts, isomers, and salts of isomers contained in a drug product for which an application has been approved under Section 505 of the Federal Food, Drug, and Cosmetic Act;**

c. Secobarbital;

[c.] d. Pentobarbital;

(b) Any suppository dosage form containing any quantity or salt of the following:

a. Amobarbital;

b. Secobarbital;

c. Pentobarbital;

(c) Any substance which contains any quantity of a derivative of barbituric acid or its salt;

(d) Chlorhexadol;

(e) **Ketamine, its salts, isomers, and salts of isomers;**

(f) Lysergic acid;

[(f)] (g) Lysergic acid amide;

[(g)] (h) Methyprylon;

[(h)] (i) Sulfondiethylmethane;

[(i)] (j) Sulfonethylmethane;

[(j)] (k) Sulfonmethane;

[(k)] (l) Tiletamine and zolazepam or any salt thereof;

(3) Nalorphine;

(4) Any material, compound, mixture, or preparation containing limited quantities of any of the following narcotic drugs or their salts:

(a) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit, with an equal or greater quantity of an isoquinoline alkaloid of opium;

(b) Not more than 1.8 grams of codeine per one hundred milliliters or not more than ninety milligrams per dosage unit with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(c) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with a fourfold or greater quantity of an isoquinoline alkaloid of opium;

(d) Not more than three hundred milligrams of hydrocodone per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(e) Not more than 1.8 grams of dihydrocodeine per one hundred milliliters or more than

ninety milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(f) Not more than three hundred milligrams of ethylmorphine per one hundred milliliters or not more than fifteen milligrams per dosage unit, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(g) Not more than five hundred milligrams of opium per one hundred milliliters or per one hundred grams or not more than twenty-five milligrams per dosage unit, with one or more active nonnarcotic ingredients in recognized therapeutic amounts;

(h) Not more than fifty milligrams of morphine per one hundred milliliters or per one hundred grams, with one or more active, nonnarcotic ingredients in recognized therapeutic amounts;

(5) Anabolic steroids. Unless specially excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any quantity of the following substances, including its salts, isomers and salts of isomers whenever the existence of such salts of isomers is possible within the specific chemical designation:

- (a) Boldenone;
- (b) Chlorotestosterone (4-Chlortestosterone);
- (c) Clostebol;
- (d) Dehydrochlormethyltestosterone;
- (e) Dihydrotestosterone (4-Dihydro-testosterone);
- (f) Drostanolone;
- (g) Ethylestrenol;
- (h) Fluoxymesterone;
- (i) Formebolone (Formebolone);
- (j) Mesterolone;
- (k) Methandienone;
- (l) Methandranone;
- (m) Methandriol;
- (n) Methandrostenolone;
- (o) Methenolone;
- (p) Methyltestosterone;
- (q) Mibolerone;
- (r) Nandrolone;
- (s) Norethandrolone;
- (t) Oxandrolone;
- (u) Oxymesterone;
- (v) Oxymetholone;
- (w) Stanolone;
- (x) Stanozolol;
- (y) Testolactone;
- (z) Testosterone;
- (aa) Trenbolone;

(bb) Any salt, ester, or isomer of a drug or substance described or listed in this subdivision, if that salt, ester or isomer promotes muscle growth except an anabolic steroid which is expressly intended for administration through implants to cattle or other nonhuman species and which has been approved by the secretary of health and human services for that administration.

(6) The department of health may except by rule any compound, mixture, or preparation containing any stimulant or depressant substance listed in subdivisions (1) and (2) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a stimulant or depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a stimulant or depressant effect on the central nervous system.

7. The department of health shall place a substance in Schedule IV if it finds that:

- (1) The substance has a low potential for abuse relative to substances in Schedule III;
- (2) The substance has currently accepted medical use in treatment in the United States; and
- (3) Abuse of the substance may lead to limited physical dependence or psychological dependence relative to the substances in Schedule III.

8. The controlled substances listed in this subsection are included in Schedule IV:

(1) Any material, compound, mixture, or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

(a) Not more than one milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Dextropropoxyphene (alpha-(+)-4-dimethylamino-1, 2-diphenyl-3-methyl-2-propionoxybutane);

(c) Any of the following limited quantities of narcotic drugs or their salts, which shall include one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

a. Not more than two hundred milligrams of codeine per one hundred milliliters or per one hundred grams;

b. Not more than one hundred milligrams of dihydrocodeine per one hundred milliliters or per one hundred grams;

c. Not more than one hundred milligrams of ethylmorphine per one hundred milliliters or per one hundred grams;

(2) Any material, compound, mixture or preparation containing any quantity of the following substances, including their salts, isomers, and salts of isomers whenever the existence of those salts, isomers, and salts of isomers is possible within the specific chemical designation:

(a) Alprazolam;

(b) Barbitol;

(c) Bromazepam;

(d) Camazepam;

(e) Chloral betaine;

(f) Chloral hydrate;

(g) Chlordiazepoxide;

(h) Clobazam;

(i) Clonazepam;

(j) Clorazepate;

(k) Clotiazepam;

(l) Cloxazolam;

- (m) Delorazepam;
- (n) Diazepam;
- (o) Estazolam;
- (p) Ethchlorvynol;
- (q) Ethinamate;
- (r) Ethyl loflazepate;
- (s) Fludiazepam;
- (t) Flunitrazepam;
- (u) Flurazepam;
- (v) Halazepam;
- (w) Haloxazolam;
- (x) [Ketamine;
- (y)] Ketazolam;
- [(z)] (y) Loprazolam;
- [(aa)] (z) Lorazepam;
- [(bb)] (aa) Lormetazepam;
- [(cc)] (bb) Mebutamate;
- [(dd)] (cc) Medazepam;
- [(ee)] (dd) Meprobamate;
- [(ff)] (ee) Methohexital;
- [(gg)] (ff) Methylphenobarbital;
- [(hh)] (gg) Midazolam;
- [(ii)] (hh) Nimetazepam;
- [(jj)] (ii) Nitrazepam;
- [(kk)] (jj) Nordiazepam;
- [(ll)] (kk) Oxazepam;
- [(mm)] (ll) Oxazolam;
- [(nn)] (mm) Paraldehyde;
- [(oo)] (nn) Petrichloral;
- [(pp)] (oo) Phenobarbital;
- [(qq)] (pp) Pinazepam;
- [(rr)] (qq) Prazepam;
- [(ss)] (rr) Quazepam;
- [(tt)] (ss) Temazepam;
- [(uu)] (tt) Tetrazepam;
- [(vv)] (uu) Triazolam;
- [(ww)] (vv) Zolpidem;

(3) Any material, compound, mixture, or preparation which contains any quantity of the following substance including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible: fenfluramine;

(4) Any material, compound, mixture or preparation containing any quantity of the following substances having a stimulant effect on the central nervous system, including their salts, isomers and salts of isomers:

- (a) Cathine ((+)-norpseudoephedrine);
- (b) Diethylpropion;

- (c) Fencamfamin;
- (d) Fenproporex;
- (e) Mazindol;
- (f) Mefenorex;
- (g) Pemoline, including organometallic complexes and chelates thereof;
- (h) Phentermine;
- (i) Pipradrol;
- (j) SPA ((-)-1-dimethylamino-1,2-diphenylethane);

(5) Any material, compound, mixture or preparation containing any quantity of the following substance, including its salts: pentazocine;

(6) Any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system including their salts, isomers and salts of isomers: ephedrine or its salts, optical isomers, or salts of optical isomers as the only active medicinal ingredient or contains ephedrine or its salts, optical isomers, or salts of optical isomers and therapeutically insignificant quantities of another active medicinal ingredient;

(7) The department of health may except by rule any compound, mixture, or preparation containing any depressant substance listed in subdivision (1) of this subsection from the application of all or any part of sections 195.010 to 195.320 if the compound, mixture, or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion, or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

9. The department of health shall place a substance in Schedule V if it finds that:

(1) The substance has low potential for abuse relative to the controlled substances listed in Schedule IV;

(2) The substance has currently accepted medical use in treatment in the United States; and

(3) The substance has limited physical dependence or psychological dependence liability relative to the controlled substances listed in Schedule IV.

10. The controlled substances listed in this subsection are included in Schedule V:

(1) Any material, compound, mixture or preparation containing any of the following narcotic drug and its salts: buprenorphine;

(2) Any compound, mixture or preparation containing any of the following narcotic drugs or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below, which also contains one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the compound, mixture or preparation valuable medicinal qualities other than those possessed by the narcotic drug alone:

(a) Not more than two and five-tenths milligrams of diphenoxylate and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(b) Not more than one hundred milligrams of opium per one hundred milliliters or per one hundred grams;

(c) Not more than five-tenths milligram of difenoxin and not less than twenty-five micrograms of atropine sulfate per dosage unit;

(3) Any material, compound, mixture or preparation which contains any quantity of the following substance having a stimulant effect on the central nervous system including its salts, isomers and salts of isomers: pyrovalerone.

11. The department of health shall revise and republish the schedules annually.

195.070. 1. A physician, podiatrist, dentist, or a registered optometrist certified to administer pharmaceutical agents as provided in section 336.220, RSMo, in good faith and in the course of his or her professional practice only, may prescribe, administer, and dispense controlled substances or he or she may cause the same to be administered or dispensed by [a nurse or graduate physician under his direction and supervision] **an individual as authorized by statute.**

2. A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer, and dispense controlled substances and he may cause them to be administered by an assistant or orderly under his direction and supervision.

3. A practitioner shall not accept any portion of a controlled substance unused by a patient, for any reason, if such practitioner did not originally dispense the drug.

4. An individual practitioner may not prescribe or dispense a controlled substance for such practitioner's personal use except in a medical emergency.

210.950. 1. This section shall be known and may be cited as the "Safe Place for Newborns Act of 2000".

2. A parent shall not be prosecuted for a violation of section 568.030, 568.045 or 568.050, RSMo, if:

(1) The parent leaves his or her newborn child in the physical custody of an employee, agent or member of the staff of a hospital, as defined in section 197.020, RSMo, who is on duty in a paid or volunteer position;

(2) The newborn child is no more than thirty days old; and

(3) The newborn child has not been physically abused by such parent.

3. A hospital shall, without a court order, take physical custody of a child who is thirty days old or younger if the child is voluntarily delivered to the hospital by the child's parent and the parent does not express an intent to return for the child. The hospital shall perform any act necessary to protect the physical health or safety of the child, and shall notify the division of family services at such time as such child is medically ready for discharge. Upon such notification, the division of family services shall take physical custody of the child within six hours.

4. Hospitals and their employees, agents and staff members shall not be liable for civil damages or subject to criminal prosecution for failure to discharge the duties provided for in this section.

217.750. 1. At the request of a judge of any circuit court, the board shall provide probation services for such court as provided in subsection 2 of this section.

2. The board shall provide probation services for any person convicted of any class of felony. The board shall not be required to provide probation services for any class of misdemeanor except those class A misdemeanors the basis of which is contained in chapters 565, 566 and 570, RSMo, or in section **568.040, RSMo**, 568.050, RSMo, 455.085, RSMo, or section 455.538, RSMo. The board may in its discretion accept other persons for supervision who have been convicted of driving while intoxicated [under] **pursuant to** the provisions of section 577.023, RSMo.

221.120. 1. If any prisoner confined in the county jail is sick and in the judgment of the jailer, requires the attention of a physician, dental care, or medicine, the jailer shall procure the necessary medicine, dental care or medical attention necessary or proper to maintain the health of the prisoner. The costs of such medicine, dental care, or medical attention shall be paid by the prisoner through any health insurance policy as defined in subsection 3 of this section, from which the prisoner is eligible

to receive benefits. If the prisoner is not eligible for such health insurance benefits then the prisoner shall be liable for the payment of such medical attention, dental care, or medicine, and the assets of such prisoner may be subject to levy and execution under court order to satisfy such expenses in accordance with the provisions of section 221.070, and any other applicable law. The county commission of the county may at times authorize payment of certain medical costs that the county commission determines to be necessary and reasonable. As used in this section, the term "medical costs" includes the actual costs of medicine, dental care or other medical attention and necessary costs associated with such medical care such as transportation, guards and in-patient care.

2. The county commission may, in their discretion, employ a physician by the year, to attend such prisoners, and make such reasonable charge for his service and medicine, when required, to be taxed and collected as provided by law.

3. As used in this section, the following terms mean:

(1) "Assets", property, tangible or intangible, real or personal, belonging to or due a prisoner or a former prisoner, including income or payments to such prisoner from Social Security, workers' compensation, veterans' compensation, pension benefits, previously earned salary or wages, bonuses, annuities, retirement benefits, compensation paid to the prisoner per work or services performed while a prisoner or from any other source whatsoever, including any of the following:

(a) Money or other tangible assets received by the prisoner as a result of a settlement of a claim against the state, any agency thereof, or any claim against an employee or independent contractor arising from and in the scope of the employee's or contractor's official duties on behalf of the state or any agency thereof;

(b) A money judgment received by the prisoner from the state as a result of a civil action in which the state, an agency thereof or any state employee or independent contractor where such judgment arose from a claim arising from the conduct of official duties on behalf of the state by the employee or subcontractor or for any agency of the state;

(c) A current stream of income from any source whatsoever, including a salary, wages, disability benefits, retirement benefits, pension benefits, insurance or annuity benefits, or similar payments; and

(2) "Health insurance policy", any group insurance policy providing coverage on an expense-incurred basis, any group service or indemnity contract issued by a not for profit health services corporation or any self-insured group health benefit plan of any type or description.

4. When the final determination of any criminal prosecution shall be such as to render the state liable for the costs pursuant to existing laws, the costs shall include medical expenses incurred on behalf of the offender.

221.407. 1. The commission of any regional jail district may impose, by order, a sales tax in the amount of one-eighth of one percent, one-fourth of one percent, three-eighths of one percent or one-half of one percent on all retail sales made in such region which are subject to taxation pursuant to the provisions of sections 144.010 to 144.525, RSMo, for the purpose of providing jail services and court facilities and equipment for such region. The tax authorized by this section shall be in addition to any and all other sales taxes allowed by law, except that no order imposing a sales tax pursuant to the provisions of this section shall be effective unless the commission submits to the voters of the district, at a county or state general, primary or special election, a proposal to authorize the commission to impose a tax.

2. The ballot of submission shall contain, but need not be limited to, the following language:

Shall the regional jail district of (counties' names) impose a regionwide sales tax of (insert amount) for the purpose of providing jail services and court facilities and equipment for the region?

Yes

No

If you are in favor of the question, place an "X" in the box opposite "Yes". If you are opposed to the question, place an "X" in the box opposite "No".

If a majority of the votes cast on the proposal by the qualified voters of the district voting thereon are in favor of the proposal, then the ordinance or order and any amendments to such ordinance or order shall be in effect on the first day of the second quarter immediately following the election approving the proposal. If the proposal receives less than the required majority, then the commission shall have no power to impose the sales tax authorized pursuant to this section unless and until the commission shall again have submitted another proposal to authorize the commission to impose the sales tax authorized by this section and such proposal is approved by the required majority of the qualified voters of the district voting on such proposal. However, in no event shall a proposal pursuant to this section be submitted to the voters sooner than twelve months from the date of the last submission of a proposal pursuant to this section.

3. All revenue received by a district from the tax authorized pursuant to the provisions of this section shall be deposited in a special trust fund and shall be used solely for providing jail services and court facilities and equipment for such district for so long as the tax shall remain in effect.

4. Once the tax authorized by this section is abolished or is terminated by any means, all funds remaining in the special trust fund shall be used solely for providing jail services and court facilities and equipment for the district. Any funds in such special trust fund which are not needed for current expenditures may be invested by the commission in accordance with applicable laws relating to the investment of other county funds.

5. All sales taxes collected by the director of revenue pursuant to this section on behalf of any district, less one percent for cost of collection which shall be deposited in the state's general revenue fund after payment of premiums for surety bonds as provided in section 32.087, RSMo, shall be deposited in a special trust fund, which is hereby created, to be known as the "Regional Jail District Sales Tax Trust Fund". The moneys in the regional jail district sales tax trust fund shall not be deemed to be state funds and shall not be commingled with any funds of the state. The director of revenue shall keep accurate records of the amount of money in the trust and which was collected in each district imposing a sales tax pursuant to this section, and the records shall be open to the inspection of officers of each member county and the public. Not later than the tenth day of each month the director of revenue shall distribute all moneys deposited in the trust fund during the preceding month to the district which levied the tax; such funds shall be deposited with the treasurer of each such district, and all expenditures of funds arising from the regional jail district sales tax trust fund shall be by an appropriation act to be enacted by the commission of each such district. Expenditures may be made from the fund for any functions authorized in the order adopted by the commission submitting the regional jail district tax to the voters.

6. The director of revenue may authorize the state treasurer to make refunds from the

amounts in the trust fund and credited to any district for erroneous payments and overpayments made, and may redeem dishonored checks and drafts deposited to the credit of such districts. If any district abolishes the tax, the commission shall notify the director of revenue of the action at least ninety days prior to the effective date of the repeal and the director of revenue may order retention in the trust fund, for a period of one year, of two percent of the amount collected after receipt of such notice to cover possible refunds or overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of the tax in such district, the director of revenue shall remit the balance in the account to the district and close the account of that district. The director of revenue shall notify each district in each instance of any amount refunded or any check redeemed from receipts due the district.

7. Except as modified in this section, all provisions of sections 32.085 and 32.087, RSMo, shall apply to the tax imposed pursuant to this section.

8. The provisions of this section shall expire August 28, 2015.

221.510. 1. This section hereafter shall be known as "Jake's Law" in honor of Jake Robel.

2. Every chief law enforcement official, sheriff, public jailer, private jailer, department of corrections official and regional jail district official shall conduct an inquiry of pending outstanding warrants on all prisoners about to be released, whether convicted or being held on suspicion of charges.

3. No prisoner, whether convicted of a crime or being held on suspicion of charges, shall be released from a correctional facility prior to having a warrant check conducted by an authorized member of the correctional facility.

4. If any prisoner's warrant check indicates outstanding charges or outstanding warrants from another jurisdiction, it shall be the duty of the official requesting the warrant check to inform the agency that issued the warrant that the correctional facility has such prisoner in custody and that prisoner shall not be released unless to the custody of the jurisdictional authority that had issued the warrant, unless the warrant has been satisfied or dismissed, or unless the warrant issuing agency has notified the correctional facility holding the prisoner that they do not wish the prisoner be transferred or the warrant to be pursued.

5. Any person may make a report to the Missouri highway patrol for violations of this section, which shall conduct an investigation. If, in the opinion of the superintendent of the highway patrol, the investigation yields reasonable grounds to believe that a violation of this section is occurring or has occurred, such person shall refer that information to the attorney general or the county prosecutor of the county where the violations are alleged to have occurred.

6. If an authorized member of the correctional facility fails to perform a warrant check that results in the release of a prisoner with outstanding warrants, that individual shall be guilty of a class A misdemeanor.

552.020. 1. No person who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an offense so long as the incapacity endures.

2. Whenever any judge has reasonable cause to believe that the accused lacks mental fitness to proceed, he shall, upon his own motion or upon motion filed by the state or by or on behalf of the accused, by order of record, appoint one or more private psychiatrists or psychologists, as defined

in section 632.005, RSMo, or physicians with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals, who are neither employees nor contractors of the department of mental health for purposes of performing the examination in question, to examine the accused; or shall direct the director to have the accused so examined by one or more psychiatrists or psychologists, as defined in section 632.005, RSMo, or physicians with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals. The order shall direct that a written report or reports of such examination be filed with the clerk of the court. No private physician, psychiatrist, or psychologist shall be appointed by the court unless he has consented to act. The examinations ordered shall be made at such time and place and under such conditions as the court deems proper; except that, if the order directs the director of the department to have the accused examined, the director, or his designee, shall determine the time, place and conditions under which the examination shall be conducted. The order may include provisions for the interview of witnesses and may require the provision of police reports to the department for use in evaluations. The department shall establish standards and provide training for those individuals performing examinations pursuant to this section and section 552.030. No individual who is employed by or contracts with the department shall be designated to perform an examination pursuant to this chapter unless the individual meets the qualifications so established by the department. Any examination performed pursuant to this subsection shall be completed and filed with the court within sixty days of the order unless the court for good cause orders otherwise. Nothing in this section or section 552.030 shall be construed to permit psychologists to engage in any activity not authorized by chapter 337, RSMo. One pretrial evaluation shall be provided at no charge to the defendant by the department. All costs of subsequent evaluations shall be assessed to the party requesting the evaluation.

3. A report of the examination made under this section shall include:

- (1) Detailed findings;
- (2) An opinion as to whether the accused has a mental disease or defect;
- (3) An opinion based upon a reasonable degree of medical or psychological certainty as to whether the accused, as a result of a mental disease or defect, lacks capacity to understand the proceedings against him or to assist in his own defense;
- (4) A recommendation as to whether the accused should be held in custody in a suitable hospital facility for treatment pending determination, by the court, of mental fitness to proceed; and
- (5) A recommendation as to whether the accused, if found by the court to be mentally fit to proceed, should be detained in such hospital facility pending further proceedings.

4. If the accused has pleaded lack of responsibility due to mental disease or defect or has given the written notice provided in subsection 2 of section 552.030, the court shall order the report of the examination conducted pursuant to this section to include, in addition to the information required in subsection 3 of this section, an opinion as to whether at the time of the alleged criminal conduct the accused, as a result of mental disease or defect, did not know or appreciate the nature, quality, or wrongfulness of his conduct or as a result of mental disease or defect was incapable of conforming his conduct to the requirements of law. A plea of not guilty by reason of mental disease or defect shall not be accepted by the court in the absence of any such pretrial evaluation which supports such a defense. In addition, if the accused has pleaded not guilty by reason of mental disease or defect, and the alleged crime is not a dangerous felony as defined in section 556.061, RSMo, or those crimes set forth in subsection 11 of section 552.040, or the attempts thereof, the court shall order the report of the examination to include an opinion as to whether or not the accused should be

immediately conditionally released by the court pursuant to the provisions of section 552.040 or should be committed to a [mental health or mental retardation facility] **secure facility as defined in section 552.040**. If such an evaluation is conducted at the direction of the director of the department of mental health, the court shall also order the report of the examination to include an opinion as to the conditions of release which are consistent with the needs of the accused and the interest of public safety, including, but not limited to, the following factors:

- (1) Location and degree of necessary supervision of housing;
- (2) Location of and responsibilities for appropriate psychiatric, rehabilitation and aftercare services, including the frequency of such services;
- (3) Medication follow-up, including necessary testing to monitor medication compliance;
- (4) At least monthly contact with the department's forensic case monitor;
- (5) Any other conditions or supervision as may be warranted by the circumstances of the case.

5. If the report contains the recommendation that the accused should be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed, and if the accused is not admitted to bail or released on other conditions, the court may order that the accused be committed to or held in a suitable hospital facility pending determination of the issue of mental fitness to proceed.

6. The clerk of the court shall deliver copies of the report to the prosecuting or circuit attorney and to the accused or his counsel. The report shall not be a public record or open to the public. Within ten days after the filing of the report, both the defendant and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, RSMo, or a physician with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals, of their own choosing and at their own expense. An examination performed pursuant to this subsection shall be completed and a report filed with the court within sixty days of the date it is received by the department or private psychiatrist, psychologist or physician unless the court, for good cause, orders otherwise. A copy shall be furnished the opposing party.

7. If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subsections 2 and 3 of this section, the court may make a determination and finding on the basis of the report filed or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The court shall determine the issue of mental fitness to proceed and may impanel a jury of six persons to assist in making the determination. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

8. At a hearing on the issue pursuant to subsection 7 of this section, the accused is presumed to have the mental fitness to proceed. The burden of proving that the accused does not have the mental fitness to proceed is by a preponderance of the evidence and the burden of going forward with the evidence is on the party raising the issue. The burden of going forward shall be on the state if the court raises the issue.

9. If the court determines that the accused lacks mental fitness to proceed, the criminal proceedings shall be suspended and the court shall commit him to the director of the department of mental health, **pursuant to section 552.040**.

10. Any person committed pursuant to subsection 9 of this section shall be entitled to the writ

of habeas corpus upon proper petition to the court that committed him. The issue of the mental fitness to proceed after commitment under subsection 9 of this section may also be raised by a motion filed by the director of the department of mental health or by the state, alleging the mental fitness of the accused to proceed. A report relating to the issue of the accused's mental fitness to proceed may be attached thereto. If the motion is not contested by the accused or his counsel or if after a hearing on a motion the court finds the accused mentally fit to proceed, or if he is ordered discharged from the director's custody upon a habeas corpus hearing, the criminal proceedings shall be resumed.

11. The following provisions shall apply after a commitment as provided in this section:

(1) Six months after such commitment, the court which ordered the accused committed shall order an examination by the head of the facility in which the accused is committed, or a qualified designee, to ascertain whether the accused is mentally fit to proceed and if not, whether there is a substantial probability that the accused will attain the mental fitness to proceed to trial in the foreseeable future. The order shall direct that written report or reports of the examination be filed with the clerk of the court within thirty days and the clerk shall deliver copies to the prosecuting attorney or circuit attorney and to the accused or his counsel. The report required by this subsection shall conform to the requirements under subsection 3 of this section with the additional requirement that it include an opinion, if the accused lacks mental fitness to proceed, as to whether there is a substantial probability that the accused will attain the mental fitness to proceed in the foreseeable future;

(2) Within ten days after the filing of the report, both the accused and the state shall, upon written request, be entitled to an order granting them an examination of the accused by a psychiatrist or psychologist, as defined in section 632.005, RSMo, or a physician with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals, of their own choosing and at their own expense. An examination performed pursuant to this subdivision shall be completed and filed with the court within thirty days unless the court, for good cause, orders otherwise. A copy shall be furnished to the opposing party;

(3) If neither the state nor the accused nor his counsel requests a second examination relative to fitness to proceed or contests the findings of the report referred to in subdivision (1) of this subsection, the court may make a determination and finding on the basis of the report filed, or may hold a hearing on its own motion. If any such opinion is contested, the court shall hold a hearing on the issue. The report or reports may be received in evidence at any hearing on the issue but the party contesting any opinion therein relative to fitness to proceed shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue;

(4) If the accused is found mentally fit to proceed, the criminal proceedings shall be resumed;

(5) If it is found that the accused lacks mental fitness to proceed but there is a substantial probability the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall continue such commitment for a period not longer than six months, after which the court shall reinstitute the proceedings required under subdivision (1) of this subsection;

(6) If it is found that the accused lacks mental fitness to proceed and there is no substantial probability that the accused will be mentally fit to proceed in the reasonably foreseeable future, the court shall dismiss the charges without prejudice and the accused shall be discharged, but only if proper proceedings have been filed under chapter 632 or chapter 475, RSMo, in which case those sections and no others will be applicable. The probate division of the circuit court shall have concurrent jurisdiction over the accused upon the filing of a proper pleading to determine if the accused shall be involuntarily detained under chapter 632, RSMo, or to determine if the accused shall

be declared incapacitated under chapter 475, RSMo, and approved for admission by the guardian under section 632.120 or 633.120, RSMo, to a mental health or retardation facility. When such proceedings are filed, the criminal charges shall be dismissed without prejudice if the court finds that the accused is mentally ill and should be committed or that he is incapacitated and should have a guardian appointed. The period of limitation on prosecuting any criminal offense shall be tolled during the period that the accused lacks mental fitness to proceed.

12. If the question of the accused's mental fitness to proceed was raised after a jury was impaneled to try the issues raised by a plea of not guilty and the court determines that the accused lacks the mental fitness to proceed or orders the accused committed for an examination pursuant to this section, the court may declare a mistrial. Declaration of a mistrial under these circumstances, or dismissal of the charges pursuant to subsection 11 of this section, does not constitute jeopardy, nor does it prohibit the trial, sentencing or execution of the accused for the same offense after he has been found restored to competency.

13. The result of any examinations made pursuant to this section shall not be a public record or open to the public.

14. No statement made by the accused in the course of any examination or treatment pursuant to this section and no information received by any examiner or other person in the course thereof, whether such examination or treatment was made with or without the consent of the accused or upon his motion or upon that of others, shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding then or thereafter pending in any court, state or federal. A finding by the court that the accused is mentally fit to proceed shall in no way prejudice the accused in a defense to the crime charged on the ground that at the time thereof he was afflicted with a mental disease or defect excluding responsibility, nor shall such finding by the court be introduced in evidence on that issue nor otherwise be brought to the notice of the jury.

552.040. 1. For the purposes of this section, the following words mean:

(1) "Prosecutor of the jurisdiction", the prosecuting attorney in a county or the circuit attorney of a city not within a county;

(2) "Secure facility", a state mental health facility, **Marshall Habilitation Center**, a state mental retardation facility, [private facility under contract with the department of mental health,] or a section within any of these facilities, in which persons committed to the department of mental health pursuant to this chapter, shall not be permitted to move about the facility or section of the facility, nor to leave the facility or section of the facility, without approval by the head of the facility or such head's designee and adequate supervision consistent with the safety of the public and the person's treatment, habilitation or rehabilitation plan;

(3) "Tried and acquitted" includes both pleas of mental disease or defect excluding responsibility that are accepted by the court and acquittals on the ground of mental disease or defect excluding responsibility following the proceedings set forth in section 552.030.

2. When an accused is tried and acquitted on the ground of mental disease or defect excluding responsibility, the court shall order such person committed to the director of the department of mental health for custody. The court shall also order custody and care in a state mental health or retardation facility unless an immediate conditional release is granted pursuant to this section. If the accused has not been charged with a dangerous felony as defined in section 556.061, RSMo, or with murder in the first degree pursuant to section 565.020, RSMo, or sexual assault pursuant to section 566.040, RSMo, or the attempts thereof, and the examination contains an opinion that the accused should be immediately conditionally released to the community by the court, the court shall hold a hearing to

determine if an immediate conditional release is appropriate pursuant to the procedures for conditional release set out in subsections 10 to 14 of this section. Prior to the hearing, the court shall direct the director of the department of mental health, or the director's designee, to have the accused examined to determine conditions of confinement in accordance with subsection 4 of section 552.020. The provisions of subsection 16 of this section shall be applicable to defendants granted an immediate conditional release and the director shall honor the immediate conditional release as granted by the court. If the court determines that an immediate conditional release is warranted, the court shall order the person committed to the director of the department of mental health before ordering such a release. The court granting the immediate conditional release shall retain jurisdiction over the case for the duration of the conditional release. This shall not limit the authority of the director of the department of mental health or the director's designee to revoke the conditional release or the trial release of any committed person pursuant to subsection 17 of this section. If the accused is committed to a mental health or mental retardation facility, the director of the department of mental health, or the director's designee, shall determine the time, place and conditions of confinement.

3. The provisions of sections 630.110, 630.115, 630.130, 630.133, 630.135, 630.140, 630.145, 630.150, 630.180, 630.183, 630.192, 630.194, 630.196, 630.198, 630.805, 632.370, 632.395, and 632.435, RSMo, shall apply to persons committed pursuant to subsection 2 of this section. If the department does not have a treatment or rehabilitation program for a mental disease or defect of an individual, that fact may not be the basis for a release from commitment. Notwithstanding any other provision of law to the contrary, no person committed to the department of mental health who has been tried and acquitted by reason of mental disease or defect as provided in section 552.030 shall be conditionally or unconditionally released unless the procedures set out in this section are followed. Upon request by an indigent committed person, the appropriate court may appoint the office of the public defender to represent such person in any conditional or unconditional release proceeding under this section.

4. Notwithstanding section 630.115, RSMo, any person committed pursuant to subsection 2 of this section shall be kept in a secure facility until such time as a court of competent jurisdiction enters an order granting a conditional or unconditional release to a nonsecure facility. **A parent or guardian of a person committed pursuant to this section and transferred to the Marshall Habilitation Center may appeal such transfer to the Missouri advisory council on mental retardation and developmental disabilities, as established in chapter 633, RSMo, or to the regional council having jurisdiction over that client. The appeal procedure shall be conducted in accordance with the provisions of chapter 621, RSMo.**

5. The committed person or the head of the facility where the person is committed may file an application in the court that committed the person seeking an order releasing the committed person unconditionally; except that any person who has been denied an application for a conditional release pursuant to subsection 13 of this section shall not be eligible to file for an unconditional release until the expiration of one year from such denial. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the committed person seeking an order releasing the committed person unconditionally. Copies of the application shall be served personally or by certified mail upon the head of the facility unless the head of the facility files the application, the committed person unless the committed person files the application, or unless the committed person was immediately conditionally released, the director of the department of mental health, and the prosecutor of the

jurisdiction where the committed person was tried and acquitted. Any party objecting to the proposed release must do so in writing within thirty days after service. Within a reasonable period of time after any written objection is filed, which period shall not exceed sixty days unless otherwise agreed upon by the parties, the court shall hold a hearing upon notice to the committed person, the head of the facility, if necessary, the director of the department of mental health, and the prosecutor of the jurisdiction where the person was tried. Prior to the hearing any of the parties, upon written application, shall be entitled to an examination of the committed person, by a psychiatrist or psychologist, as defined in section 632.005, RSMo, or a physician with a minimum of one year training or experience in providing treatment or services to mentally retarded or mentally ill individuals of its own choosing and at its expense. The report of the mental condition of the committed person shall accompany the application. By agreement of all parties to the proceeding any report of the mental condition of the committed person which may accompany the application for release or which is filed in objection thereto may be received by evidence, but the party contesting any opinion therein shall have the right to summon and to cross-examine the examiner who rendered such opinion and to offer evidence upon the issue.

6. By agreement of all the parties and leave of court, the hearing may be waived, in which case an order granting an unconditional release shall be entered in accordance with subsection 8 of this section.

7. At a hearing to determine if the committed person should be unconditionally released, the court shall consider the following factors in addition to any other relevant evidence:

- (1) Whether or not the committed person presently has a mental disease or defect;
- (2) The nature of the offense for which the committed person was committed;
- (3) The committed person's behavior while confined in a mental health facility;
- (4) The elapsed time between the hearing and the last reported unlawful or dangerous act;
- (5) Whether the person has had conditional releases without incident; and
- (6) Whether the determination that the committed person is not dangerous to himself or others is dependent on the person's taking drugs, medicine or narcotics. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking unconditional release to prove by clear and convincing evidence that the person for whom unconditional release is sought does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

8. The court shall enter an order either denying the application for unconditional release or granting an unconditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

9. No committed person shall be unconditionally released unless it is determined through the procedures in this section that the person does not have, and in the reasonable future is not likely to have, a mental disease or defect rendering the person dangerous to the safety of himself or others.

10. The committed person or the head of the facility where the person is committed may file an application in the court having probate jurisdiction over the facility where the person is detained for a hearing to determine whether the committed person shall be released conditionally. In the case of a person committed to a mental health facility upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, RSMo, murder in the first degree pursuant to section 565.020, RSMo, or sexual assault pursuant to section 566.040, RSMo, any such application shall be filed in the court that committed the person. In such cases,

jurisdiction over the application for conditional release shall be in the committing court. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the released person or the director of the department of mental health, or the director's designee, may file an application in the same court that released the person seeking to amend or modify the existing release. The procedures for application for unconditional releases set out in subsection 5 of this section shall apply, with the following additional requirements:

(1) A copy of the application shall also be served upon the prosecutor of the jurisdiction where the person is being detained, unless the released person was immediately conditionally released after being committed to the department of mental health, or unless the application was required to be filed in the court that committed the person in which case a copy of the application shall be served upon the prosecutor of the jurisdiction where the person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released;

(2) The prosecutor of the jurisdiction where the person was tried and acquitted shall use their best efforts to notify the victims of dangerous felonies. Notification by the appropriate person or agency by certified mail to the most current address provided by the victim shall constitute compliance with the victim notification requirement of this section;

(3) The application shall specify the conditions and duration of the proposed release;

(4) The prosecutor of the jurisdiction where the person is being detained shall represent the public safety interest at the hearing unless the prosecutor of the jurisdiction where the person was tried and acquitted decides to appear to represent the public safety interest. If the application for release was required to be filed in the committing court, the prosecutor of the jurisdiction where the person was tried and acquitted shall represent the public safety interest. In the case of a person who was immediately conditionally released after being committed to the department of mental health, the prosecutor of the jurisdiction where the person was tried and acquitted shall appear and represent the public safety interest.

11. By agreement of all the parties, the hearing may be waived, in which case an order granting a conditional release, stating the conditions and duration agreed upon by all the parties and the court, shall be entered in accordance with subsection 13 of this section.

12. At a hearing to determine if the committed person should be conditionally released, the court shall consider the following factors in addition to any other relevant evidence:

(1) The nature of the offense for which the committed person was committed;

(2) The person's behavior while confined in a mental health facility;

(3) The elapsed time between the hearing and the last reported unlawful or dangerous act;

(4) The nature of the person's proposed release plan;

(5) The presence or absence in the community of family or others willing to take responsibility to help the defendant adhere to the conditions of the release; and

(6) Whether the person has had previous conditional releases without incident. The burden of persuasion for any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility shall be on the party seeking release to prove by clear and convincing evidence that the person for whom release is sought is not likely to be dangerous to others while on conditional release.

13. The court shall enter an order either denying the application for a conditional release or granting conditional release. An order denying the application shall be without prejudice to the filing of another application after the expiration of one year from the denial of the last application.

14. No committed person shall be conditionally released until it is determined that the

committed person is not likely to be dangerous to others while on conditional release.

15. If, in the opinion of the head of a facility where a committed person is being detained, that person can be released without danger to others, that person may be released from the facility for a trial release of up to ninety-six hours under the following procedure:

(1) The head of the facility where the person is committed shall notify the prosecutor of the jurisdiction where the committed person was tried and acquitted and the prosecutor of the jurisdiction into which the committed person is to be released at least thirty days before the date of the proposed trial release;

(2) The notice shall specify the conditions and duration of the release;

(3) If no prosecutor to whom notice is required objects to the trial release, the committed person shall be released according to conditions and duration specified in the notice;

(4) If any prosecutor objects to the trial release, the head of the facility may file an application with the court having probate jurisdiction over the facility where the person is detained for a hearing under the procedures set out in subsections 5 and 10 of this section with the following additional requirements:

(a) A copy of the application shall also be served upon the prosecutor of the jurisdiction into which the committed person is to be released; and

(b) The prosecutor or prosecutors who objected to the trial release shall represent the public safety interest at the hearing; and

(5) The release criteria of subsections 12 to 14 of this section shall apply at such a hearing.

16. The department shall provide or shall arrange for follow-up care and monitoring for all persons conditionally released under this section and shall make or arrange for reviews and visits with the client at least monthly, or more frequently as set out in the release plan, and whether the client is receiving care, treatment, habilitation or rehabilitation consistent with his needs, condition and public safety. The department shall identify the facilities, programs or specialized services operated or funded by the department which shall provide necessary levels of follow-up care, aftercare, rehabilitation or treatment to the persons in geographical areas where they are released.

17. The director of the department of mental health, or the director's designee, may revoke the conditional release or the trial release and request the return of the committed person if such director or coordinator has reasonable cause to believe that the person has violated the conditions of such release. If requested to do so by the director or coordinator, a peace officer of a jurisdiction in which a patient on conditional release is found shall apprehend and return such patient to the facility. No peace officer responsible for apprehending and returning the committed person to the facility upon the request of the director or coordinator shall be civilly liable for apprehending or transporting such patient to the facility so long as such duties were performed in good faith and without negligence. If a person on conditional release is returned to a facility under the provisions of this subsection, a hearing shall be held within ninety-six hours, excluding Saturdays, Sundays and state holidays, to determine whether the person violated the conditions of the release or whether resumption of full-time hospitalization is the least restrictive alternative consistent with the person's needs and public safety. The director of the department of mental health, or the director's designee, shall conduct the hearing. The person shall be given notice at least twenty-four hours in advance of the hearing and shall have the right to have an advocate present.

18. At any time during the period of a conditional release or trial release, the court which ordered the release may issue a notice to the released person to appear to answer a charge of a violation of the terms of the release and the court may issue a warrant of arrest for the violation. Such

notice shall be personally served upon the released person. The warrant shall authorize the return of the released person to the custody of the court or to the custody of the director of mental health or the director's designee.

19. The head of a mental health facility, upon any notice that a committed person has escaped confinement, or left the facility or its grounds without authorization, shall immediately notify the prosecutor and sheriff of the county wherein the committed person is detained of the escape or unauthorized leaving of grounds and the prosecutor and sheriff of the county where the person was tried and acquitted.

20. Any person committed to a mental health facility under the provisions of this section upon acquittal on the grounds of mental disease or defect excluding responsibility for a dangerous felony as defined in section 556.061, RSMo, murder in the first degree pursuant to section 565.020, RSMo, or sexual assault pursuant to section 566.040, RSMo, shall not be eligible for conditional or unconditional release under the provisions of this section unless, in addition to the requirements of this section, the court finds that the following criteria are met:

(1) Such person is not now and is not likely in the reasonable future to commit another violent crime against another person because of such person's mental illness; and

(2) Such person is aware of the nature of the violent crime committed against another person and presently possesses the capacity to appreciate the criminality of the violent crime against another person and the capacity to conform such person's conduct to the requirements of law in the future.

565.084. 1. A person commits the crime of tampering with a judicial officer if, with the purpose to harass, intimidate or influence a judicial officer in the performance of such officer's official duties, [he] **the actor**:

(1) Threatens or causes harm to such judicial officer or members of such judicial officer's family;

(2) Uses force, threats, or deception against or toward such judicial officer or members of such judicial officer's family;

(3) Offers, conveys or agrees to convey any benefit direct or indirect upon such judicial officer or such judicial officer's family;

(4) Engages in conduct reasonably calculated to harass or alarm such judicial officer or such judicial officer's family, including stalking pursuant to section 565.225.

2. A judicial officer for purposes of this section shall be a judge, arbitrator, special master, juvenile court commissioner, state probation or parole officer, **juvenile court officer** or referee.

3. A judicial officer's family for purposes of this section shall be:

(1) [His] **The officer** spouse; or

(2) [His or his] **The officer's or the officer's** spouse's ancestor or descendant by blood or adoption; or

(3) [His] **The officer's** stepchild, while the marriage creating that relationship exists.

4. Tampering with a judicial officer is a class C felony.

566.111. 1. No person shall knowingly engage in any sexual conduct with an animal or knowingly cause another person to engage in any sexual conduct with an animal for sexual gratification of any person.

2. Any person who violates the provisions of subsection 1 of this section is guilty of a class D felony.

568.030. 1. A person commits the crime of abandonment of a child in the first degree if, as a parent, guardian or other person legally charged with the care or custody of a child less than

four years old, he leaves the child in any place with purpose wholly to abandon it, under circumstances which are likely to result in serious physical injury or death.

2. It shall be an affirmative defense to prosecution pursuant to this section that the defendant voluntarily delivered the child to a hospital pursuant to section 210.950, RSMo.

3. Abandonment of a child in the first degree is a class B felony.

568.045. 1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age, unlawfully manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.

2. It shall be an affirmative defense to prosecution pursuant to this section that the defendant voluntarily delivered the child to a hospital pursuant to section 210.950, RSMo.

3. Endangering the welfare of a child in the first degree is a class D felony unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class C felony.

568.050. 1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or

(2) He knowingly encourages, aids or causes a child less than seventeen years old to engage in any conduct which causes or tends to cause the child to come within the provisions of paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(3) Being a parent, guardian or other person legally charged with the care or custody of a child less than seventeen years old, he recklessly fails or refuses to exercise reasonable diligence in the care or control of such child to prevent him from coming within the provisions of paragraph (c) of subdivision (1) of subsection 1 or paragraph (d) of subdivision (2) of subsection 1 or subdivision (3) of subsection 1 of section 211.031, RSMo; or

(4) He knowingly encourages, aids or causes a child less than seventeen years of age to enter into any room, building or other structure which is a public nuisance as defined in section 195.130, RSMo.

2. Nothing in this section shall be construed to mean the welfare of a child is endangered for the sole reason that he is being provided nonmedical remedial treatment recognized and permitted

under the laws of this state.

3. It shall be an affirmative defense to prosecution pursuant to this section that the defendant voluntarily delivered the child to a hospital pursuant to section 210.950, RSMo.

4. Endangering the welfare of a child in the second degree is a class A misdemeanor unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony.

568.052. 1. As used in this section, the following terms mean:

(1) "Collision", the act of a motor vehicle coming into contact with an object or a person;

(2) "Injury", physical harm to the body of a person;

(3) "Motor vehicle", any automobile, truck, truck-tractor, or any motor bus or motor-propelled vehicle not exclusively operated or driven on fixed rails or tracks;

(4) "Unattended", not accompanied by an individual fourteen years of age or older.

2. A person commits the crime of leaving a child unattended in a motor vehicle in the first degree if such person knowingly leaves a child ten years of age or less unattended in a motor vehicle and such child fatally injures another person by causing a motor vehicle collision or by causing the motor vehicle to fatally injure a pedestrian, such person shall be guilty of a class C felony.

3. A person commits the crime of leaving a child unattended in a motor vehicle in the second degree if such person knowingly leaves a child ten years of age or less unattended in a motor vehicle and such child injures another person by causing a motor vehicle collision or by causing the motor vehicle to injure a pedestrian, such person shall be guilty of a class A misdemeanor.

568.072. 1. A person commits the crime of unlawful drug transactions with a child if the person:

(1) Knowingly permits a child less than seventeen years of age to enter or remain in a place where illegal activity in controlled substances, as defined in chapter 195, RSMo, is maintained or conducted; or

(2) Knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195, RSMo;

(3) Enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(4) Unlawfully manufactures, compounds, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues in the presence of a person less than seventeen years of age;

(5) Violates section 195.211, RSMo, by distributing or delivering any controlled substance to a person less than seventeen years of age.

2. Unlawful drug transactions with a child is a class A felony.

3. It is not a defense to a violation of this section that the defendant did not know the age of the child.

568.176. 1. Any person who sells, or attempts to sell, any person less than eighteen years of age to another, or receives money or anything of value, in consideration of placing any person less than eighteen years of age in the custody, or under the power or control of another,

or who buys, or attempts to buy, any person less than eighteen years of age, or pays money, or delivers anything of value, to another in consideration of having any person less than eighteen years of age placed in his or her custody, or under his or her power or control is guilty of a class B felony.

2. The provisions of this section shall not apply to legitimate adoptions nor to legitimate actions by department of corrections officials or county jailers.

575.230. 1. A person commits the crime of aiding escape of a prisoner if [he] **the person:**

(1) Introduces into any place of confinement any deadly weapon or dangerous instrument, or other thing adapted or designed for use in making an escape, with the purpose of facilitating the escape of any prisoner confined therein, or of facilitating the commission of any other crime; or

(2) Assists or attempts to assist any prisoner who is being held in custody or confinement for the purpose of effecting the prisoner's escape from custody or confinement.

2. Aiding escape of a prisoner by introducing a deadly weapon or dangerous instrument into a place of confinement is a class B felony. Aiding escape of a prisoner being held in custody or confinement on the basis of a felony charge or conviction is a class [D] B felony. Otherwise, aiding escape of a prisoner is a class A misdemeanor.

610.120. 1. Records required to be closed shall not be destroyed; they shall be inaccessible to the general public and to all persons other than the defendant except as provided in this section and section 43.507, RSMo. They shall be available to:

(1) Criminal justice agencies for the administration of criminal justice pursuant to section 43.500, RSMo;

(2) Criminal justice employment and screening persons with access to criminal justice facilities, procedures and sensitive information;

(3) Law enforcement agencies for issuance or renewal of a license, permit, certification or registration of authority from such agency, including but not limited to watch persons, security personnel, private investigators and persons seeking permits to purchase, possess or carry a concealable firearm;

(4) The subject of a criminal history record when such check is based on a fingerprint search;

(5) The sentencing advisory commission created in section 558.019, RSMo, for the purpose of studying sentencing practices, [and only to courts, law enforcement agencies, child care agencies, department of revenue for driving record purposes,] pursuant to 43.507, RSMo;

(6) Facilities as defined in section 198.006, RSMo, in-home services provider agencies as defined in section 660.250, RSMo, the division of workers' compensation for the purposes of determining eligibility for crime victims' compensation pursuant to sections 595.010 to 595.075, RSMo[, and];

(7) Federal agencies for purposes of [prosecution, sentencing, parole consideration, criminal justice employment, child care employment, nursing home employment] criminal justice administration, and [to federal agencies] for such investigative purposes as authorized by law or presidential executive order;

(8) Agencies authorized by section 43.543, RSMo, to check a person's criminal history when such search is based on fingerprint identification; and

(9) Persons, private entities or federal agencies screening persons to have unsupervised access to, or to provide supervision over, or care for children, elderly persons and disabled persons when such search is based on fingerprint identification. [These records shall be made

available for the above purposes regardless of any previous statutory provision which had closed such records to certain agencies or for certain purposes.]

2. All records which are closed records shall be removed from the records of the courts, administrative agencies, and law enforcement agencies which are available to the public and shall be kept in separate records which are to be held confidential and, where possible, pages of the public record shall be retyped or rewritten omitting those portions of the record which deal with the defendant's case. If retyping or rewriting is not feasible because of the permanent nature of the record books, such record entries shall be blacked out and recopied in a confidential book.

[2. As used in this section, the term "child care" includes providers and youth services agencies as those terms are defined in section 43.540, RSMo, elementary and secondary school teachers, and elementary and secondary school bus drivers, whether such drivers are employed by a school or an entity which has contracted with the school to provide transportation services.]

610.122. Notwithstanding other provisions of law to the contrary, any record of arrest recorded pursuant to section 43.503, RSMo, may be expunged if the court determines that:

(1) The arrest was based on false information and the following conditions exist:

(a) There is no probable cause, at the time of the action to expunge, to believe the individual committed the offense;

[(2)] (b) No charges will be pursued as a result of the arrest;

[(3)] (c) The subject of the arrest has no prior or subsequent misdemeanor or felony convictions **or suspended impositions of sentence and there are no pending criminal investigations regarding the arrest;**

[(4)] (d) The subject of the arrest did not receive a suspended imposition of sentence for the offense for which the arrest was made or for any offense related to the arrest; and

[(5)] (e) No civil action is pending relating to the arrest or the records sought to be expunged[.]; or

(2) **No criminal charges have been filed against the subject of the arrest within ten years from the date of such arrest.**

650.400. The department of public safety is hereby designated as the central repository for the collection, maintenance, analysis and reporting of crime incident activity, including, but not limited to, the manufacture, possession, sale and distribution of methamphetamine and all other illegal drug activity, that is generated by law enforcement agencies in Missouri. The department of public safety shall develop and operate a uniform crime reporting system that is compatible with the national uniform crime reporting system operated by the Federal Bureau of Investigation.

650.403. The department of public safety, shall:

(1) **Develop, operate and maintain an information system for the collection, storage, maintenance, analysis and retrieval of crime incident and arrest reports from Missouri law enforcement agencies;**

(2) **Compile the statistical data and forward such data as required to the Federal Bureau of Investigation or the appropriate Department of Justice agency, in accordance with the standards and procedures of the national systems;**

(3) **Provide the forms, formats, procedures, standards and related training and training assistance to all law enforcement agencies in the state as necessary for these agencies to report incident and arrest activity for timely inclusion into the statewide system;**

(4) **Annually publish a report on the nature and extent of crime and furnish the report**

to the governor and the Missouri general assembly. This report and other statistical reports shall be made available to state and local law enforcement agencies and the general public through an electronic or manual media; and

(5) Maintain the privacy and security of information in accordance with applicable state and federal laws, regulations or orders.

650.406. The department of public safety, may:

(1) Enter into agreements with agencies or groups for statistical comparison of crime reports and related data, however, such reports shall not reveal the identity of the persons nor shall the receiving agency or group attempt to reestablish the identity of such persons; and

(2) Prepare special compilations of data from the uniform crime reporting system for nongovernmental agencies for a fee commensurate with resources expended; the fee of which shall be allocated to the state's criminal justice technology funds.

650.409. Law enforcement agencies in Missouri shall cooperate in the collection of data and statistics as required by sections 650.400 to 650.415 and shall:

(1) Submit crime incident reports to the department of public safety on forms or in the format prescribed by the department; and

(2) Submit, at a minimum, the crime incident information prescribed by the department.

650.412. 1. The director of the department of public safety shall, in accordance with the provisions of chapter 536, RSMo, establish such rules and regulations as are necessary to carry out the provisions of sections 650.400 to 650.415.

2. No rule or portion of a rule promulgated pursuant to the authority of this section shall become effective unless it has been promulgated pursuant to the provisions of chapter 536, RSMo.

650.415. Any law enforcement agency which violates the provisions of sections 650.400 to 650.415 may not be eligible to receive state or federal funds which would otherwise be paid to it for law enforcement, safety or criminal justice purposes.

Section 1. Sections 1 to 6 of this act may be cited as the "Missouri Rehabilitation and Sealed Records Act".

Section 2. For the purposes of sections 1 to 6 of this act, the following terms mean:

(1) "Sex-related offense", any crime defined in chapter 566, RSMo, section 568.020, subdivision (2) of subsection 1 of section 568.045, subdivision (2) of subsection 1 of section 568.060, and sections 568.080 and 568.090, RSMo; and

(2) "Violent felony", any crime punishable as a class A felony, any crime punishable as a class B felony of an intentional act or any crime in which a deadly weapon, as defined in section 556.061, RSMo, was used or displayed.

Section 3. A person who has pled guilty to or found guilty of no more than one felony or two misdemeanors may petition the circuit court to have such person's record, including juvenile records, sealed, if the person:

(1) Has not pled guilty to or been found guilty of a misdemeanor for at least ten consecutive years or pled guilty to or been found guilty of a felony for at least fifteen consecutive years, after being discharged from probation or released from incarceration;

(2) Is not currently on probation or parole;

(3) Has not pled guilty to or been found guilty of a violent felony;

(4) Has not pled guilty to or been found guilty of a sex-related offense;

(5) Has not pled guilty to or been found guilty of any offense of distributing a controlled substance as described in chapter 195, RSMo, and punishable as a class A or B felony;

(6) Has not previously petitioned to have such person's records sealed pursuant to the provisions of sections 1 to 6 of this act;

(7) Has not been convicted, as that term is defined in section 302.700, RSMo, for the operation of a commercial motor vehicle, as defined in section 302.700, RSMo, with a blood alcohol content of at least four-hundredths of one percent; and

(8) Is at least twenty-five years of age.

Section 4. If the court finds that a person has met the requirements of section 3 of this act, the court may in the court's discretion after considering the totality of the circumstances set aside all verdicts or findings of guilty and allow the petitioner to withdraw all pleas of guilty and may dismiss with prejudice all cases against the petitioner, and may order all criminal and juvenile records of the petitioner to be sealed. Notwithstanding any other provision of law to the contrary, such petitioners waive all rights of being employed by any Missouri-licensed gambling operation. If the petitioner is arrested for committing any crime, other than minor traffic offenses, during the pendency of the action, the court shall stay such action until the resolution of any indictment or information filed pursuant to such arrest.

Section 5. 1. A person who knowingly fails to seal, or releases information which has been ordered sealed pursuant to section 4 of this act, is guilty of a class B misdemeanor.

2. A person who, knowing the records have been ordered sealed, uses the information for financial gain is guilty of a class D felony.

Section 6. 1. The sealing of any record shall not reflect on the validity of the arrest or conviction and shall not be construed to indicate a lack of probable cause for the arrest.

2. The petitioner shall not bring any action subsequent to the sealing against any law enforcement officer or law enforcement agency relating to the arrest or conviction described in the sealed records.

3. The public shall not have access to records sealed pursuant to sections 1 to 6 of this act.

4. For the purposes of section 610.120, the term "closed" shall include sealed.

5. Notwithstanding the provisions of sections 1 to 6 of this act to the contrary, all law enforcement agencies shall have access to records sealed pursuant to sections 1 to 6 of this act.